

AMENDED IN ASSEMBLY MAY 16, 2016

AMENDED IN ASSEMBLY MAY 2, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2818

Introduced by Assembly Member Chiu

February 19, 2016

An act to add Sections 401.21 and 214.17 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2818, as amended, Chiu. Property taxation: community land trust.

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected, including, but not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill, for lien dates occurring on and after January 1, 2017, in assessing an owner-occupied single-family dwelling or owner-occupied unit in a multifamily dwelling, and the land on which the dwelling or unit is situated required for the convenient occupation and use of that dwelling or unit by persons and families of low or moderate income, would require the value of the dwelling or unit and the land to be presumed to be the purchase price of the dwelling or unit.

This bill, for lien dates occurring on and after January 1, 2017, in assessing a dwelling or unit owned by a limited equity housing

cooperative or by a member-occupant or resident shareholder of the limited equity housing cooperative, and the land on which the dwelling or unit is situated required for the convenient occupation and use of the dwelling or unit by persons and families of low or moderate income, would also require the value of the dwelling or unit and the land to be presumed to be the purchase price of the share conveying an exclusive right to occupancy and possession of that dwelling or unit.

Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met.

This bill, on and after January 1, 2017, would provide that property is within the welfare exemption if that property is owned and operated by a nonprofit corporation, otherwise qualifying for the welfare exemption, that has as one of its primary purposes the creating and maintaining of permanently affordable single-family or multifamily residences to which specified conditions apply. The bill, in the case of property not previously designated as open space, would prohibit this exemption from being denied on the basis that the subject property does not currently include a single-family or multifamily residence as so described or a single-family or multifamily residence as so described that is in the course of construction. The bill would require the exemption to apply to a property for no more than 5 years from the date any of certain restrictions are recorded against the property.

By imposing new duties upon local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state

shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 401.21 is added to the Revenue and
2 Taxation Code, to read:

3 401.21. (a) In assessing an owner-occupied single-family
4 dwelling or owner-occupied unit in a multifamily dwelling, and
5 the land on which the dwelling or unit is situated that is required
6 for the convenient occupation and use of that dwelling or unit by
7 persons and families of low or moderate income, the value of the
8 dwelling or unit and the land shall be presumed to be the purchase
9 price of the dwelling or unit.

10 (b) In assessing a dwelling or unit owned by a limited equity
11 housing cooperative or by a member-occupant or resident
12 shareholder of the limited equity housing cooperative, and the land
13 on which the dwelling or unit is situated that is required for the
14 convenient occupation and use of the dwelling or unit by persons
15 and families of low or moderate income, the value of the dwelling
16 or unit and the land shall be presumed to be the purchase price of
17 the share conveying an exclusive right to occupancy and possession
18 of that dwelling or unit.

19 (c) For purposes of this section, all of the following definitions
20 shall apply:

21 (1) "Affordability restrictions" include, but are not limited to,
22 any of the following:

23 (A) The dwelling or unit can only be rented, sold, or resold to
24 persons and families of low or moderate income to be occupied
25 as a principal place of residence.

26 (B) The sale or resale price of the dwelling or unit is determined
27 by a formula that ensures the dwelling or unit has a purchase price
28 that is affordable to persons and families of low or moderate
29 income.

30 (C) The rent collected from the dwelling or unit does not exceed
31 the maximum rent allowable to be collected from persons and
32 families of low or moderate income.

(D) There is a purchase option for the dwelling or unit in favor of the community land trust intended to preserve the dwelling or unit as affordable to persons and families of low or moderate income.

(E) Any restriction that ensures the dwelling or unit is to remain affordable to persons and families of low or moderate income by recorded deed, deed restriction, ground lease, covenant, memorandum, or other recorded instrument.

(F) Any restriction in a recorded instrument from which one of the following public agencies or officials has made a finding that the restriction serves the public interest to create and ~~preserves~~ *preserve* the affordability of residential housing for persons and families of low or moderate income:

(i) The director of the local housing authority or equivalent agency.

(ii) The county counsel.

(iii) The director of a county housing department.

(iv) The city attorney.

(v) The director of a city housing department.

(2) “Community land trust” means a nonprofit corporation, otherwise qualifying for exemption under Section 214, that has as one of its primary purposes ~~the creating and maintaining~~ *creation and maintenance* of permanently affordable single-family or multifamily residences to which both of the following conditions apply:

(A) All residences on the land are sold to a qualified owner to be occupied by persons and families of low or moderate income as their primary residence, and the land on which the dwelling or unit is situated is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years.

(B) The dwelling or unit is subject to affordability restrictions.

(3) “Limited equity housing cooperative” has the same meaning as that term is defined in Section 817 of the Civil Code.

(4) “Persons and families of low or moderate income” has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.

(5) “Qualified owner” means either of the following:

(A) A limited equity housing cooperative.

(B) Persons and families of low or moderate income.

1 (6) "Purchase price" means a price that does not exceed the sale
2 or resale formula that ensures the dwelling or unit has a purchase
3 price that is affordable to persons and families of low or moderate
4 income.

5 (d) This section shall apply to lien dates occurring on and after
6 January 1, 2017.

7 SEC. 2. Section 214.17 is added to the Revenue and Taxation
8 Code, to read:

9 214.17. (a) Property is within the exemption provided by
10 Sections 4 and 5 of Article XIII of the California Constitution if
11 that property is owned and operated by a nonprofit corporation,
12 otherwise qualifying for exemption under Section 214, that has as
13 one of its primary purposes ~~the creating and maintaining~~ *creation*
14 *and maintenance* of permanently affordable single-family or
15 multifamily residences in which both of the following conditions
16 apply:

17 (1) All residences on the land are intended for ownership by a
18 qualified owner to be occupied by persons and families of low or
19 moderate income as their primary residence, and the land on which
20 the residence is situated is leased by the nonprofit corporation to
21 the qualified owner for the convenient occupation and use of that
22 residence for a renewable term of 99 years.

23 (2) The residence is subject to affordability restrictions.

24 (b) In the case of property not previously designated as open
25 space, the exemption provided by subdivision (a) may not be
26 denied to a property on the basis that the property does not
27 currently include a single-family or multifamily residence, as
28 described in subdivision (a), or a single-family or multifamily
29 residence, as described in subdivision (a), that is in the course of
30 construction.

31 (c) The exemption ~~required~~ *authorized* pursuant to this section
32 shall apply to a property for no more than five years from the date
33 any restriction described in subparagraph (E) or (F) of paragraph
34 (1) of subdivision (d) is recorded against the property.

35 (d) For purposes of this section, all of the following shall apply:

36 (1) "Affordability restrictions" include, but are not limited to,
37 any of the following:

38 (A) The residence can only be rented, sold, or resold to persons
39 and families of low or moderate income to be occupied as a
40 principal place of residence.

1 (B) The sale or resale price of the residence is determined by a
2 formula that ensures the residence has a purchase price that is
3 affordable to persons and families of low or moderate income.

4 (C) The rent collected from the residence does not exceed the
5 maximum rent allowable to be collected from persons and families
6 of low or moderate income.

7 (D) There is a purchase option for the residence in favor of the
8 nonprofit organization intended to preserve the residence as
9 affordable to persons and families of low or moderate income.

10 (E) Any restriction that ensures the residence is to remain
11 affordable to persons and families of low or moderate income by
12 recorded deed, deed restriction, ground lease, covenant,
13 memorandum, or other recorded instrument.

14 (F) Any restriction in a recorded instrument from which one of
15 the following public agencies or officials has made a finding that
16 the restriction serves the public interest to create and preserve the
17 affordability of residential housing for persons and families of low
18 or moderate income:

19 (i) The director of the local housing authority or equivalent
20 agency.

21 (ii) The county counsel.

22 (iii) The director of a county housing department.

23 (iv) The city attorney.

24 (v) The director of a city housing department.

25 (2) "Limited equity housing cooperative" has the same meaning
26 as that term is defined in Section 817 of the Civil Code.

27 (3) "Persons and families of low or moderate income" has the
28 same meaning as that term is defined in Section 50093 of the
29 Health and Safety Code.

30 (4) "Qualified owner" means either of the following:

31 (A) A limited equity housing cooperative.

32 (B) Persons and families of low or moderate income.

33 (e) This section shall apply to lien dates occurring on and after
34 January 1, 2017.

35 SEC. 3. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made
38 pursuant to Part 7 (commencing with Section 17500) of Division
39 4 of Title 2 of the Government Code.

1 SEC. 4. Notwithstanding Section 2229 of the Revenue and
2 Taxation Code, no appropriation is made by this act and the state
3 shall not reimburse any local agency for any property tax revenues
4 lost by it pursuant to this act.

5 SEC. 5. This act provides for a tax levy within the meaning of
6 Article IV of the Constitution and shall go into immediate effect.

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